

event Article 3107 should be held to be unconstitutional, party committees would have this authority. Such committees would have such implied powers only as are in accordance with party usage. *Beene v. Waples*, (Tex. Sup.) 187 S. W. 191. We find no sanction in party usage in this State for such action by party committees. There have been defections in the ranks of the major party in the recent past, and it has never been the policy of the party to expel from the party those members who may have voted another ticket in the general election, nor to exclude them as candidates. On the contrary, they have been welcomed back for the sake of party harmony. Therefore, such power of party committees would not be held to be an implied or inherent power. No power is to be implied in such committees as against party usage.

It is not for this Department to either condone party irregularity or condemn those who saw fit to vote for presidential nominees of another party in the last election. This opinion is confined strictly to the one question—which is a law question, though on a political subject—as to whether party committees have the authority in question.

In the light of the foregoing, you are, therefore, advised that in the opinion of this Department, no executive committee of a political party has the power to bar any person from participating in a party primary either as a candidate for office or as a voter, because such person has voted against a nominee of such party at an election heretofore held, after participating in the primary conventions and primary elections of such party.

Yours very truly,

L. C. SUTTON,

LCS:W Assistant Attorney General.

This opinion has been considered in conference, approved and ordered recorded.

ROBERT LEE BOBBITT,
Attorney General.

NINTH DAY.

Senate Chamber,
Austin, Texas,
January 31, 1927.

The Senate met at 10 o'clock a.

m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Neal.
Berkeley.	Parr.
Cousins.	Parrish.
DeBerry.	Patton.
Gainer.	Russek.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Wirtz.
Martin.	Witt.
McFarlane.	Woodul.
Miller.	Woodward.
Moore.	

Absent—Excused.

Cunningham.	Pollard.
Greer.	Small.
Hardin.	Williamson.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Gainer.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Small:

S. B. No. 28, A bill to be entitled "An Act creating a more efficient road system for Collingsworth County, Texas; and declaring an emergency."

Read first time and referred to Committee on State Highways and Motor Traffic.

By Senators Parrish and Small:

S. B. No. 29, A bill to be entitled "An Act providing for the sale of all oil and/or gas in State Prison lands by lease; creating a Board for Lease of State Prison Lands and prescribing the duties and powers of said Board; prescribing the mode and manner of selling oil and gas in State prison lands and the disposition to be made of the proceeds of such sales; making an appropriation to defray the expense of enforcing

the Act; repealing all laws in conflict; and declaring an emergency."

Read first time and referred to Committee on Public Lands and Land Office.

Senators Excused.

The following Senators were excused for the rest of the week on account of important business:

Senator Cousins, on motion of Senator Thomason.

Senator Hardin, on motion of Senator Moore.

Senator Pollard, on motion of Senator Cunningham.

Senator Small, on motion of Senator Parrish.

H. C. R. No. 14.

The Chair laid before the Senate H. C. R. No. 14, inviting a reconsideration by the Real Estate Board of Wisconsin of policy toward realtors from Texas.

The resolution was read.

Senator Holbrook moved to refer the resolution to the Committee on State Affairs.

Senator Parr moved that the resolution be voted on immediately.

The motion to refer was lost by the following vote:

Yeas—8.

Berkeley.	Love.
Cunningham.	Martin.
DeBerry.	Wirtz.
Holbrook.	Woodward.

Nays—14.

Beck.	Parr.
Gainer.	Parrish.
Hornsby.	Patton.
Hyer.	Russek.
McFarlane.	Thomason.
Moore.	Westbrook.
Neal.	Woodul.

Absent.

Miller.

Absent—Excused.

Cousins.	Small.
Greer.	Stevenson.
Hardin.	Williamson.
Pollard.	Witt.

The resolution was adopted by the following vote:

Yeas—17.

Beck.	Parrish.
Gainer.	Russek.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Wirtz.
McFarlane.	Witt.
Moore.	Woodul.
Neal.	Woodward.
Parr.	

Nays—3.

Cunningham.	Martin.
Holbrook.	

Present—Not Voting.

Berkeley.	DeBerry.
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Absent.

Miller.	Stevenson.
Patton.	

Absent—Excused.

Cousins.	Pollard.
Greer.	Small.
Hardin.	Williamson.

Simple Resolution No. 13.

Senator Neal sent up the following resolution:

Whereas, The memorial address delivered by Senator Thos. B. Love on the occasion of the memorial services to former Gov. Peter Hansborough Bell at a joint session of the House and Senate on Wednesday, January 29, 1930, is worthy of being made a matter of record for the people of the State, and

Whereas, Said address should be published in the Journal of the Senate,

Now, Therefore, Be It Resolved That a copy of said address be printed in the Senate Journal.

NEAL.

Read and adopted.

Memorial Address.

(Address delivered by Senator Love on occasion of memorial services to former Gov. Peter Hansborough Bell.)

We are met to perform an important public service and to render tardy justice, and not alone to do honor to the dead, but to the living as well.

The Forty-first Legislature made

provision for the making of the State Cemetery at Austin a Texas Valhalla, where the people, and especially the youth of Texas, may have the educative value of paying tribute to the heroes who made Texas the scene of Anglo-Saxon civilization, and learning of the story of their service.

Today we are committing to that consecrated ground, long hallowed by the dust of Albert Sidney Johnston, the mortal remains of Peter Hansborough Bell; and there are at least four great facts in his career, each of which alone would entitle him to that immortality.

First, he fought as a private soldier under Sam Houston at San Jacinto. As a stripling 24 years of age, he left his Virginia home to fight for Texas liberty. He travelled by sailing vessel to Texas, where he arrived at Old Velasco, at the mouth of the Brazos, in March, 1836. He made his way inland and enlisted in Sam Houston's army at Jared Groce's plantation on April 18, 1836, just one week before the Battle of San Jacinto, in which he fought as a private in Captain Henry W. Carnes' Company.

Second, he was a Texas Ranger—an original Texas Ranger—in the days of the republic when that immortal band was the sole and safe reliance for the protection of the homes and the women and children making up the far flung line of Anglo-Saxon settlements in Texas, against the raids of the murderous savages.

Third, he was a member and the major of a battalion in the Somervell Expedition, organized in response to President Sam Houston's call in 1842, during Houston's second administration, which invaded Mexico for defense in retaliation after the Mexican invasion of Texas and raids on San Antonio.

Fourth, he was elected and re-elected as Governor of Texas, serving from 1849 to 1853, and he was no ordinary Governor, but a great one. His administration accomplished the settlement of the dispute between Texas and the United States, in which Ten Million Dollars was paid to the State in settlement of its claim against the territory now comprising New Mexico, and out of this sum, Two Million Dollars was placed in the Permanent School Fund of Texas.

to endow our common schools. As the result of this great act of Governor Bell's administration, the school children of Texas today are getting about \$100,000 a year, as the interest on this fund, as they have every hour for 80 years, and will for all time to come.

During Governor Bell's second term as Governor of Texas, he was elected from his district to the Congress of the United States and resigned the office of Governor 21 days before the expiration of his term, to take his seat with that body, where he served two terms as Congressman, his service ending March 3, 1857. He was the only Governor of Texas who ever resigned his office to accept a seat in Congress, and, I think, the only one who ever resigned that office on any account.

Bell County, created January 22, 1850, was named in honor of Governor Bell, then serving his first term as Governor.

After the termination of his Congressional service, Governor Bell was married to Mrs. Ella Reeves Eaton Dickens, daughter of the Hon. William Eaton. He removed to her home at Littleton, Warren County, North Carolina, where they afterward resided until her death, July 16, 1897, and his death, March 8, 1898. They had no children.

The Texas Legislature, in 1891, voted to Governor Bell a pension of \$150 a year and also granted him a certificate of 1280 acres of land, which had long been due him but never claimed.

Texas, through her Legislature, honors herself in honoring this truly great Texas hero and Texas leader.

S. B. No. 24 Recommitted.

S. B. No. 24 was recommitted to the Committee on Stock and Stock Raising.

S. C. R. No. 6.

Senator McFarlane sent up the following resolution:

Whereas, Mr. Gregory Hatcher has information he desires to present to the House and the Senate,

Therefore, Be It Resolved by the Senate of Texas, the House of Representatives concurring, That Mr. Hatcher be invited to address the joint session of the House and the

Senate, on Monday, February 3, at 7:30 p. m. and that the Governor and the Auditor and Comptroller, and all other interested parties be invited to be present, and answer Mr. Hatcher, if they desire.

McFARLANE.

Read and adopted.

Committee of the Whole.

The Senate resolved itself into a Committee of the Whole, Senator Berkeley presiding.

Committee Reports.

Senator Berkeley reported that the Senate had made progress, and moved that the Senate meet again as a Committee of the Whole immediately after recess. The motion prevailed.

Simple Resolution No. 14.

Senator Holbrook sent up the following resolution:

Whereas, The Senate of Texas has with profound sorrow learned that the mother of our colleague, Senator Benjamin F. Berkeley, has passed away, and realizing and feeling as each one of us does that the loss of "mother" is the greatest blow that falls upon the lot of men,

Therefore Be It Resolved, That when this Senate adjourns for the day it do so in honor of the memory of the mother of our distinguished colleague and that we extend to him our heartfelt sympathy in his great loss.

Resolved Further, That the Lieutenant Governor appoint three members of the Senate to attend the funeral.

HOLBROOK,
WITT.

Read and unanimously adopted by a rising vote.

Committee Appointed.

The Chair appointed the following committee in accordance with S. R. No. 14:

Senators Holbrook, Thomason and Beck.

Recess.

On motion of Senator Witt, the Senate, at 12:10 o'clock p. m., recessed until 2:00 o'clock p. m.

After Recess.

The Senate met at 2:00 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Barry Miller.

Simple Resolution No. 15.

Senator Parrish sent up the following resolution:

Whereas, Mrs. James H. Goodman of Lubbock, Texas, is now on the floor of the Senate, and

Whereas, Mrs. Goodman is the only lady member of the Texas State Democratic Executive Committee, and is one of the outstanding leaders of women's civic activities in the State, now, therefore

Be It Resolved That Mrs. Goodman be invited to address the Senate at this time and that the privileges of the floor be graciously extended to her.

PARRISH,
HORNSBY.

Read and adopted.

The Chair appointed Senators Parrish, Hornsby and Neal to escort Mrs. Goodman to the platform upon her arrival in the Chamber.

Committee of the Whole.

The Senate resolved itself into a Committee of the Whole, Senator Berkeley presiding.

Committee Reports.

Senator Berkeley reported that the Committee of the Whole had made progress and moved that the Senate resolve itself again into a Committee of the Whole Monday morning immediately after the morning call.

The motion prevailed.

Senator Witt moved that the Senate conclude the testimony on the prison situation Monday morning when the Senate convened as a Committee of the Whole.

The motion prevailed.

Mrs. Goodman Speaks.

The Chair announced that Mrs. Goodman was now present and requested the Committee to escort her to the platform.

The Chair introduced Senator Parrish who introduced Mrs. Goodman. Mrs. Goodman briefly addressed the Senate.

Simple Resolution No. 16.

Senator Hornsby sent up the following resolution:

Be It Resolved That the members of the State Democratic Executive Committee will be mighty welcome to their capitol city and are cordially invited to hold their meetings in the Senate Chamber and the same is hereby tendered for that purpose on tomorrow.

HORNSBY.

Read and adopted.

Adjournment.

Senator DeBerry moved to adjourn until tomorrow morning at 10 o'clock.

Senator Wirtz moved as a substitute that the Senate adjourn until Monday morning at 10 o'clock. The motion prevailed and at 4:27 o'clock p. m., the Senate adjourned.

APPENDIX.**Petitions and Memorials.**

Lockhart, Texas,
January 28, 1930.

We, the undersigned citizens and tax payers of Caldwell County, most respectfully and earnestly request our Representatives, the Hon. George Shelton, Hon. A. J. McKean and Hon. A. J. Wirtz, to protest with their votes and influence the location of the prison system or any portion of it in Caldwell County and earnestly request them to vote to retain the prison system at or near Huntsville on State owned land and hope that our friend and neighbor, Hon. John W. Hornsby, can consistently cooperate with our Representatives as set forth above. We respectfully ask that these petitions be read by the Clerks and be printed in Journals of each House.

(Numerously signed.)

Austin, Texas,
January 31, 1930.

The Senators and their ladies are cordially invited to attend a reception and tea to be given by the United Daughters of the Confederacy in the "Museum" Saturday, February 1, at 4:00 p. m.

Invitation accepted with thanks.

HORNSBY.

Hon. Barry Miller, President of the Senate of Texas, Austin, Texas.

Mr. President: The high tribute paid me by the Legislature in H. C. R. No. 12, together with the award of a medal, I recognize and accept, I trust with pardonable pride, as the greatest honor that could have been bestowed upon me as a citizen and servant of the State.

Service to the State in times of peace, and to the common defense of the Union in times of war, is the obligation voluntarily assumed by each member of the National Guard.

To comply with the Orders of the Governor of Texas on the occasions referred to in H. C. R. No. 12 was my plain duty as an officer of the Texas National Guard. As a citizen and lawyer, who reveres the Constitution of the United States, and of the State of Texas, the opportunity to aid the Civil Power in the restoration of Constitutional Government, and the majesty of the civil law, when and where the civil authorities failed, and to have contributed aid to the peoples of an area affected by public disaster, was a high privilege.

I would not be human if the generous action of the Legislature did not arouse my deepest emotion of appreciation and gratitude. Words can not portray them. I can only convey by this means my appreciation and thanks to the Legislature as a whole, and to each member of the House and Senate individually, for the great compliment and signal honor conferred upon me.

Gratefully and sincerely yours,

JACOB F. WOLTERS.

Committee Reports.

Committee Room,

Austin, Texas, January 28, 1930.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 8, a bill to be entitled "An Act fixing the compensation of county commissioners in every county having a population of not less than 7395, and not more than 7410 according to the 1920 United States Census, and having taxable values as shown by the approved 1929 tax roll amounting to as much as \$8,145,000.00, and not more than \$8,150,000.00; prescribing how such

compensation shall be paid; and providing that the Act shall apply only to counties expending funds derived from the sale of bonds issued for the purpose of building hard surface roads, or in aid thereof; and that such salary shall only apply so long as such roads are in construction, and so long as such bond fund is being expended, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, January 31, 1931.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Penitentiaries, to whom was referred

S. B. No. 18, a bill to be entitled "An Act amending Section 6 of Chapter 45, Acts of Forty-first Legislature, First Called Session; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

McFARLANE, Chairman.

Committee Room,

Austin, Texas, January 30, 1939.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

S. B. No. 24, A bill to be entitled "An Act amending Article 6954 of the Revised Civil Statutes of 1925, as amended, with reference to the mode of preventing horses and certain other animals from running at large, and enumerating the counties in which said article shall apply; omitting from said article the following language: 'provided that where there is an application to include an entire county there shall not be less than twelve free holders from each justice precinct of said county as signers to the petition for such election,' and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it be not printed.

PARR, Chairman.

Committee Room,

Austin, Texas, January 30, 1930.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 26, A bill to be entitled "An Act authorizing a certain portion of the salary of county judges and county commissioners to be paid out of the road and bridge fund and the remainder out of the general fund of the county; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WIRTZ, Chairman.

TENTH DAY.

Senate Chamber,

Austin, Texas,

February 3, 1930.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Neal.
Berkeley.	Parr.
Cunningham.	Parrish.
DeBerry.	Patton.
Gainer.	Pollard.
Greer.	Russek.
Hardin.	Small.
Holbrook.	Stevenson.
Hornsby.	Thomason.
Hyer.	Westbrook.
Love.	Williamson.
Martin.	Wirtz.
McFarlane.	Witt.
Miller.	Woodul.
Moore.	Woodward.

Absent.

Cousins.

Prayer by the Rev. Dan Grieder, of Austin.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)